IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE R.BASANT

FRIDAY, THE 10TH AUGUST 2007 / 19TH SRAVANA 1929

Bail Appl..No. 4822 of 2007()

CRMP.8604/2007 of J.M.F.C.,CHALAKUDY
CRIME NO.152/07 OF VELLIKULANGARA POLICE STATION

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: PETITIONER/ACCUSED:

VELAYUDHAN, S/O. AMBATTU PARAMBIL RAJAN,
MURIKKINGAL DESOM, THRISSUR DISTRICT.

BY ADV. SRI.T.N.MANOJ

RESPONDENTS:

THE SUB INSPECTOR OF POLICE,
VELLIKULANGARA POLICE STATION.

BY PUBLIC PROSECUTOR SRI.S.U.NAZER

THIS BAIL APPLICATION HAVING COME UP FOR ADMISSION ON 10/08/2007, THE COURT ON THE SAME DAY PASSED THE FOLLOWING:

R.BASANT, J

B.A.No. 4822 of 2007

Dated this the 10th day of August, 2007

ORDER

Application for regular bail. The petitioner faces allegations under the Kerala Abkari Act. 910 litres of spirit in 37 containers were allegedly recovered from the terrace of a deserted house. The petitioner is not the owner of the house. He is not the lessee or licencee of the house. Allegation is made that the petitioner was responsible for possession of the contraband liquor in the terrace of that house. The crime was registered on 28.06.07. Seizure was effected on that date and the F.I.R was registered. In the seizure mahazar and the F.I.R, there is no unambiguous indication to suggest that the petitioner was responsible for the commission of the crime. The petitioner has criminal antecedents. He is involved in a couple of cases under the Kerala Abkari Act. On receipt of discreet prior information that the petitioner had stocked the articles in an unoccupied house, the police party had gone to the scene of the crime and effected the seizure. There was a maid who was put in charge of the house. She had the keys of the house with her. She was unable to explain how the contraband articles were found in the terrace of the house. But she revealed that the petitioner was often seen in the

premises. Despite her objection, the petitioner comes to the compound of the house in question. There was some gruesome death in that house and therefore that offered a convenient place of hiding for whoever was responsible for keeping the articles there.

2. The owner of the house does not specifically connect the petitioner. The housemaid only asserts that the petitioner was often found there without valid explanation. The police had received discreet prior information that the petitioner was keeping contraband articles in that premises. In fact seizure mahasar shows that the search of the entire house did not reveal the presence of any contraband articles and it so happened that the necessity to inspect the terrace was felt. The petitioner has criminal antecedents also.

3. The learned counsel for the petitioner submits that these indications are totally insufficient to attract culpability or even to justify the continued detention of the petitioner. It is prayed that the petitioner may now be enlarged on bail.

4. The learned Public Prosecutor opposes the application. The learned Public Prosecutor submits that the investigation is not complete. In a serious crime like the instant one, investigator must be given reasonable further time to complete the investigation. The evidence collected so far may not be sufficient to come to a final

conclusion of guilt against the petitioner. But very strong suspicion is aroused and the needle of suspicion certainly and definitely is pointed at the petitioner. This is not the occasion for courts to weigh the materials collected in golden scales. Adequate opportunity must be given to the investigator to work on the clues that are available and conduct and a complete and proper investigation. The learned Public Prosecutor points out that under Section 41 A of the Kerala Abkari Act, the petitioner is not entitled to be enlarged on bail.

5. I shall scrupulously avoid any detailed discussion on merits about the acceptability of the allegations and the quality of the data collected. As rightly pointed out by the learned Public Prosecutor in the wake of opposition by the learned Public Prosecutor, bail can be granted to the petitioner only if the petitioner is in a position to instill in the mind of the Court the twin satisfactions contemplated under Section 41 A of the Kerala Abkari Act. Having rendered my very anxious consideration to all the relevant inputs, I am unable to conclude that either of such satisfactions can be entertained at this stage. I am satisfied that the investigator must be given reasonable further time to complete the investigation.

6. This application for regular bail is, in these circumstances, dismissed, but with the observation that the petitioner shall be at

liberty to move the learned Sessions Judge or this Court for bail again at a later stage of the investigation - not, at any rate, prior to 24.08.07. The investigator must in the meantime make every endeavour to complete the investigation.

(R.BASANT, JUDGE)

rtr/-